

# **CALIFORNIA TRANSPORTATION COMMISSION AIRSPACE ADVISORY COMMITTEE MEETING**

## **AGENDA**

Tuesday, January 9, 2001  
11:00 a.m. – 1:00 p.m.

### Video Conference

District 12 Office Building  
Building 3355-4<sup>th</sup> Floor, Room D-4149  
Irvine, CA 92612

### **AND**

District 4 Office Building  
Video Conference Room 15-310  
111 Grand Avenue, 15<sup>th</sup> Floor  
Oakland, CA 94111

- |    |   |             |
|----|---|-------------|
| 1. | Introduction of New Members/Staff   | S. Atkins   |
| 2. | Approval of October 2000 Minutes  | Committee   |
| 3. | Airspace-Change in Terms/Conditions<br>Ravel<br>03-SAC-050-0011                                   | P. Schultze |
| 4. | Airspace-Request to Directly Negotiate<br>CRV Enterprises<br>10-SJX-005-0201, 0300xz              | G. Watkins  |
| 5. | Excess Land-Approval of Direct Sale (over \$1.0 M)<br>The Irvine Company<br>DD063768-01-01, 02    | S. Ikeda    |
| 6. | Excess Land-Approval of Direct Sale (over \$1.0 M)<br>City of Newport Beach<br>DD040766-01-01, 02 | S. Ikeda    |
| 7. | Airspace-Proposed CTC Resolution<br>Leasing of Airspace for Public Mass Transit Facilities        | S. Atkins   |
| 8. | Fiber Optic Program Discussion  | P. Schultze |
| 9. | Discussion to Set Future Meeting Schedule   | B. Wilson   |

### Meeting Contact:

California Transportation Commission  
1120 "N" Street, MS 52  
Sacramento, CA 95814  
916/654-7179 (Kathie Jacobs)

# **CALIFORNIA TRANSPORTATION COMMISSION AIRSPACE ADVISORY COMMITTEE MEETING**

## Video Conference

District 12 Office Building  
Building 3355-4<sup>th</sup> Floor, Suite 100  
Irvine, CA 92612

And

Wylie Greig  
The RREEF Funds  
101 California Street, 26<sup>th</sup> Floor  
San Francisco, CA 94111

October 11, 2000

## **MINUTES**

### PARTICIPANTS:

Committee Members: A. Auer, J. Glassmoyer, W. Greig, N. Gruen, B. Hauf,  
R. Payne, M. Smith

Commission Member: R. Kozberg

Commission Staff: B. Remen

Caltrans Staff: S. Atkins, C. Crosby, B. Macpherson, G. Mattocks,  
P. Schultze, P. Smith, B. Wilson

### PROCEEDINGS:

The meeting was planned to be a videoconference, however due to video compatibility problems the meeting was held by speakerphone. Chairperson A. Auer welcomed the committee members and staff to the meeting and opened the meeting.

#### 1. Approval of Minutes

Minutes of the June 7, 2000, Committee meeting were approved unanimously.

#### 2. Approval of Leases of Airspace to Public Entities For Mass Transit Facilities

G. Mattocks explained the proposal by the Department to encourage mass transit agencies to utilize airspace for new mass transit facilities. This proposal related to

implementation of Section 104.12(b) of the Streets and Highways Code. The section of the Streets and Highways Code provides that where sufficient land or airspace exists within the right of way of a highway, constructed in whole or in part with federal-aid highways funds, that the Department may make this land available with or without charge to a public entity for mass transit facilities, subject to reservations, restrictions, or conditions to ensure protection of the safety and adequacy of the highway facility and adjacent land.

G. Mattocks added the Department has allowed public mass transit agencies to place fixed guideways within state highway right of way under encroachment permit, but has charged fair market rent for the lease of airspace for other mass transit facilities such as parking lots for transit patrons and the storage of buses. The statute, mentioned above, gives the Department broad discretion regarding mass transit-related facility leases with or without charge to public entities. We believe it is incumbent upon the Department to further encourage the development and usage of public mass transit systems by providing airspace for new mass transit facilities at a nominal or less than market rental rate.

G. Mattocks explained the proposal was a delegation to the Department to enter into these leases without specific approval of the CTC, and a two-tiered payment proposal which included a lease rate of nominal, which would be recovery of the Departments' lease administration costs for those new mass transit uses which result in direct and positive congestion relief, such as a new fixed guideway. In addition, for those mass transit uses which result in indirect congestion relief, such as a bus storage yard the rental rate would be 50 percent of appraised fair market rent.

B. Remen asked if the Department has a fair market lease in place at this time, and is approached to revise it under the proposed process what would result? G. Mattocks replied the Department has no plan to replace or rescind existing agreements.

N. Gruen commented if a mass transit agency owns a parcel for parking, they may take the Department's property and they would be free to develop their property to retail, etc.

B. Macpherson added that District 4 had an example in San Bruno.

N. Gruen, commented this could be a "Big State Giveaway".

W. Greig, asked if this proposal is limited to public agencies?

G. Mattocks said "yes".

N. Gruen, asked if this would amount to extra parking for the mass transit agencies?

G. Mattocks, asked if she could explain more regarding her question.

N. Gruen indicated she did not like this proposal, and it reflected short-run thinking.

B. Hauf asked why this proposal now? Is there any reason in particular? Is there a profit factor?

G. Mattocks indicated this was a proposal for public mass transit agencies, but that private businesses could possibly be brought onto the property for uses that were compatible with the transit uses.

B. Hauf asked who would review and approve the proposals, and would the CTC be making an approval?

R. Payne pointed out that the Department "may" make, not "shall" offer the properties available to mass transit agencies. She added she did not understand why the Department is doing this.

B. Hauf said he agreed.

G. Mattocks indicated that the existing CTC resolution G-6 does not give the Department the necessary approval to proceed with this process.

R. Payne indicated she was willing to review a particular proposal for a project.

B. Hauf said it is very difficult to conceive of every situation.

B. Remen added that for example high-density housing could be considered supportive of mass transit facilities also.

R. Kozberg suggested that the Department shouldn't state an arbitrary 50% figure for indirect congestion relief projects, but that the rent could be less than fair market with AAC and CTC approval.

W. Greig indicated 50 percent or 100 percent is a judgment call.

R. Payne, N Gruen, W. Greig agreed that there should not be a specific percentage of fair market rent.

N. Gruen said the AAC wants to look at each transaction, and want the flexibility to recommend as they see appropriate.

B. Hauf said he agreed.

R. Payne said she also agreed, and that she did not like the specific language offered.

W. Greig agreed.

G. Mattocks, said that he hoped to get a delegation for the AAC and CTC to use the process as proposed.

N. Gruen indicated the committee does not know the projects that will be proposed.

B. Hauf said the projects should be brought to the committee for their review?

R. Payne said the current statutes gives the Department the latitude at this time.

G. Mattocks asked if the committee would approve a delegation to the Department?

R. Payne and N. Gruen said "no" the projects need to come to the committee.

G. Mattocks asked if CTC Resolution G-6 could be amended.

R. Kozberg indicated the current resolution G-6 allowed the department to bring these projects to the committee and to the CTC for approval.

R. Payne made a motion to re-examine the existing resolution G-6 and modify the language to provide for Streets and Highways Code Section 104.12(b), but the resolution should indicate leases below fair market rent should be contingent upon receiving an AAC recommendation for approval to the CTC, and CTC approval.

N. Gruen seconded the motion and added the word needs to get out to public agencies about the proposal.

W. Greig asked if the G-6 Resolution revision would impact the current wording related to developing local parks?

G. Mattocks said it would not.

The motion was approved unanimously by the committee.

3. Approval of New Terms and Conditions Morvis Corvis Corp. 08-LAX-010-0070, 07-LAX-110-0006

This item was pulled from the agenda.

4. Asset Management-Summary of Major Building Projects

Chuck Crosby, representing the Departments Asset Management function, presented a summary of the major building projects including projects in Eureka, Redding, Marysville, Fresno, Los Angeles, San Diego, and Orange County.

N. Gruen commented that the project in Eureka was anticipated to cost \$5,701,000 and the cost for the Redding project was \$406,000 for required seismic retrofit to improve from a Risk Level VI to Risk III, and questioned the significant cost differences.

B. Hauf asked if there was a master plan for these facilities, and should the Department consider replacing or retrofitting, considering the buildings are 45 to 50 years old?

C. Crosby said that they had been master planned since 1993, and that the Department was downsizing at that time.

B. Hauf asked why didn't the Department know about these problem areas earlier- for example seismic retrofit, access for disabled, etc.?

W. Greig added is this a good course to embark upon or not? After spending this money, will the buildings be safe and useful for a long period of time?

B. Hauf also asked what was the plan for District 11 (San Diego) will they build new or retrofit?

C. Crosby replied that when the Department does a study we consider a project over a 30-year period.

R. Payne commented this represents a total program over \$360 Million. How does the Department finance this amount?

C Crosby said it is a combination of sources, bonds, cash from the Transportation Fund, lease revenue bonds, in the case of the project in Los Angeles the Department recommended lease revenue bonds versus cash funds.

R. Payne said the status report was appreciated, and she now has more information on Asset Management activities.

N. Gruen asked if the Department considered telecommunication/data transfer capabilities when they reviews/evaluate a building?

C. Crosby replied that the Departments information services staff has documented standards for both wide area networks, data transfer, and computer compatibility standards. Each individual district is responsible for developing and plan to achieve those standards, and any new leased or owned facility is required to meet or exceed those standards.

B. Hauf asked how the Department deals with asbestos?

C. Crosby said the Department has tested each facility and knows asbestos levels and condition, and that any re-construction project requires any asbestos to be removed by federal standards.

A. Auer thanked Mr. Crosby for his presentation.

5. Airspace/Excess Land Business Plans FY 2000/01

Scott Atkins presented the Airspace/Excess Land Business Plans for FY 2000/01. Mr. Atkins said typically the plan is presented to the AAC first and then to the CTC. This year it was presented to the CTC first at their September meeting and today to the AAC.

Mr. Atkins explained the Airspace Business Plan had two goals. The first is to develop and maintain a standardized and streamlined process for Regions/Districts to use in processing a lease agreement. This goal should result in a reduction of the number and type of airspace leases and simplify the leasing process. The second goal for Airspace is to develop a new policy and procedure for leasing property to public entities for mass transit facilities. This effort is to implement Streets and Highways Code Section 104.12(b) as part of the Department's congestion relief effort.

Mr. Atkins discussed the Excess Lands Business Plan, which has two goals. The first is to optimize program efficiency by delivering agreed upon sales targets and property inventory levels by maximizing use of resources allocated for inventory and sales activities. The second goal is to maintain and improve an accurate database of inventory and sales for Region/Districts to use to evaluate the Excess Land Program.

The Committee had no questions for Mr. Atkins on the business plan.

Mr. Atkins mentioned at the September CTC meeting Commissioner Wolf had asked if the Department had considered Airspace over freeways for affordable housing. Mr. Atkins indicated that the Department had not, but that in Stockton there was a homeless shelter on an airspace parcel.

N. Gruen added that airspace is not a good location for affordable housing, and lower income households often have more cars per capita than higher income households thus causing a potential parking problem for an affordable housing development.

W. Greig said that high construction costs in the freeway right of way could be an issue.

R. Payne added that the Urban Land Institute might have studies on this issue that could be reviewed. She also mentioned that high construction costs associated with constructing over a freeway more likely would attract developers of high cost, market rate housing in the metropolitan areas of California.

W. Greig said in the San Jose area it is very desirable to live near mass transit/rail facilities.

Other comments from the Committee included, noise, dust and fumes, as well as children's play areas, are all issues that would have to be overcome in the development of housing in the airspace over a state highway.

6. Bi-Annual Airspace Report - 99/00

Bruce Wilson gave the Airspace Report. Mr. Wilson explained the report, which indicated a net income to the Airspace Program of \$15.2 Million for the 99/00 Fiscal Year. This net income represents a slight decrease from the previous fiscal year, however the overall long-term trend shows a steady increase in income. The expense-to-gross income ratio for 99/00 Fiscal Year was 9.9% compared to 8.4% for the previous fiscal year.



W. Greig asked why is the current net income lower? Mr. Wilson explained it was due to seismic retrofit activities, advance payments under the wireless program that were reflected in the previous fiscal year, and postponing some leasing while airspace sites utilized as parking were reviewed to determine a better leasing process.

7. Discussion to Set Future Meeting Schedule

The committee agreed the next meeting would be held on January 9, 2001 by videoconference, and set the following meeting for April 11, 2001.

8. The meeting adjourned at 12:00 p.m.

# Memorandum

To: CHAIR AND MEMBERS  
Airspace Advisory Committee

Date: December 19, 2000

File: AIRSPACE  
NR-SAC-050-0011

From: DEPARTMENT OF TRANSPORTATION  
North Region Right of Way  
Airspace

Subject: Request for Approval of Amended Terms for a Directly Negotiated Lease for Parking on a 121,443 ± Square Foot Parcel Located Beneath the Viaduct of Highway 50 in Sacramento

## RECOMMENDATION:

It is requested that the Airspace Advisory Committee (AAC) recommend approval to the California Transportation Commission (CTC) on a request to amend the lease terms, as detailed below, on an existing long-term lease.

## SUMMARY:

The subject is located beneath and adjacent to the Camellia Viaduct of State Route 50 in Sacramento. The city block is 121,443 ± square feet and is bounded on the east by 23rd Street, on the west by 22nd Street, on the south by X Street, and by W Street on the north.

The site is utilized as a surface parking lot to support an 110,000-square feet office building located across X Street. The current Lessee is the "Twenty Second and Broadway Partnership" who is assigning the lease to Ravel Properties in an exchange agreement. The original lease has a term of 32 years four months beginning June 1, 1983, and expiring on September 30, 2015. The current lease rate is \$5,546.64 per month with CPI adjustments every five years except when a reevaluation occurs (1995 and 2005). The maximum upward adjustment is 8 percent per annum compounded with no floor.

The proposed assignee is requesting a 30-year lease extension and has stated their offer to purchase the office building may be contingent upon receiving the lease extension due to the need for parking for the office building and financing considerations.

This proposal was submitted to the District Airspace Review Committee to determine if there are any proposed projects that would preclude the lease extension. There are currently discussions to extend High Occupancy Vehicle Lanes (HOVL) in the median area of the freeway and to possibly add drop ramps. The proposed project is expected to be nominated to the Sacramento Area Council of Governments (SACOG) for State Transportation Improvement Plan (STIP) funding (if local support is found) and may have funding for the environmental documents in fiscal year 2004/05. The location of the drop ramps has not been determined. There may also be future interest in exploring adding an additional lane to the south of the viaduct.

The proposed projects have been disclosed to the proposed assignee. Due to the potential that future project work will require a portion(s) of the parcel and will disrupt the use of the parcel, the Department proposed that certain modifications to the *standard condemnation clause* would be required to pursue approval of the lease extension. The *standard condemnation clause* allows Lessor to acquire the premises for a transportation or public use with the Lessee receiving compensation based on the value of its interests in said single parcel and improvements constructed thereon without regard to adjoining uses or ownership, potentially requiring legal/court action(s). The amended lease would replace the *standard condemnation clause* with a *future transportation project clause*, which clearly states that there will be no compensation paid for the taking or disruption and does not require legal/court action(s). The Lessee would receive pro-rata rent relief during the disruption due to construction and a permanent pro-rata reduction of the lease rate depending upon the area taken.

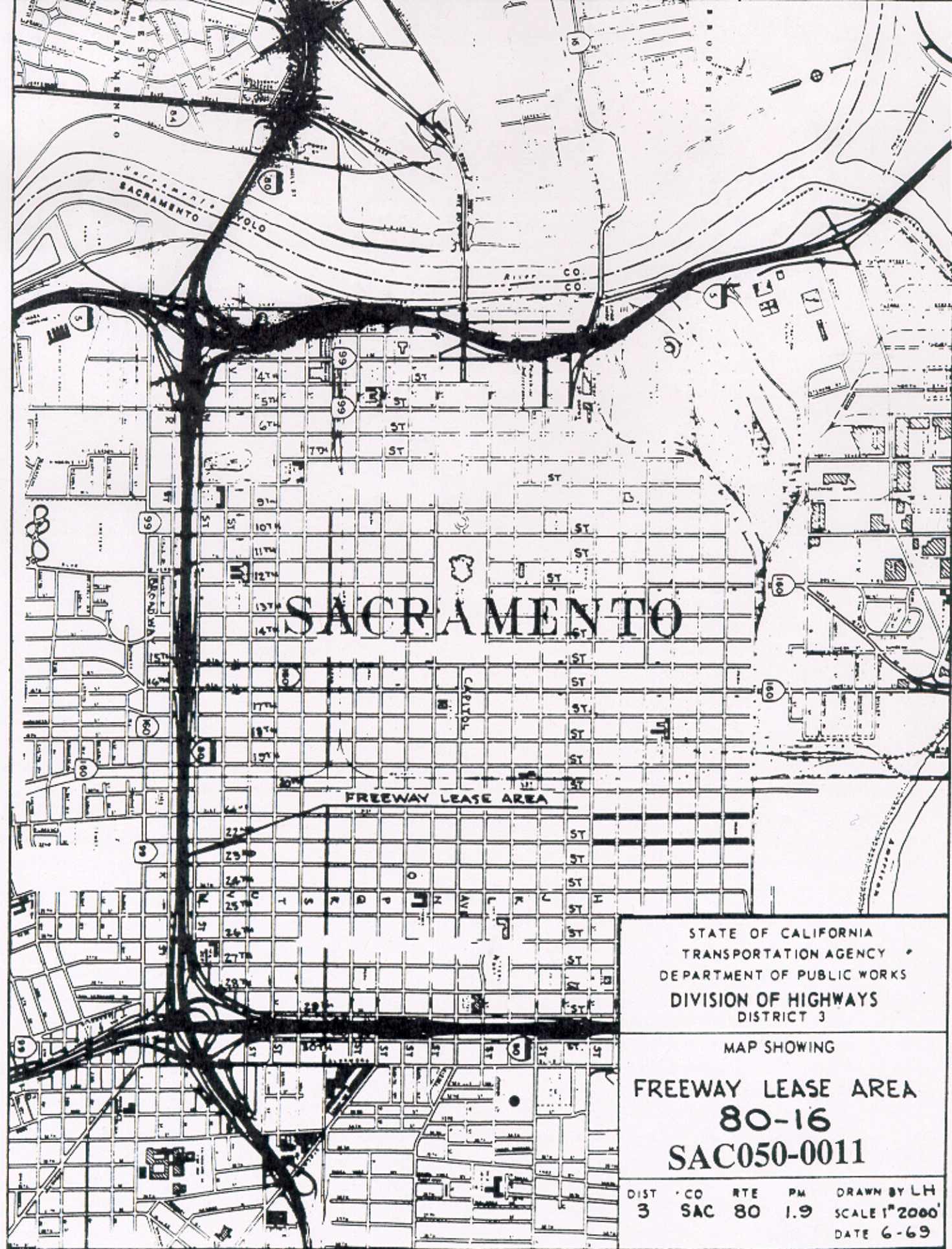
The proposed assignee has agreed to waive the existing provisions in favor of the amended provisions with the agreement that they may construct a parking structure on the remainder after all project work is completed (if they are required to replace the impacted (lost) spaces to fulfill requirements for the office building tenant's parking needs). In addition, during the extended lease term the rental rate will continue to be subject to the CPI escalations and reevaluations every ten years.

This proposed lease amendment is mutually beneficial as it simplifies gaining control of the parcel for anticipated project-related work and meets the needs of the proposed assignee.

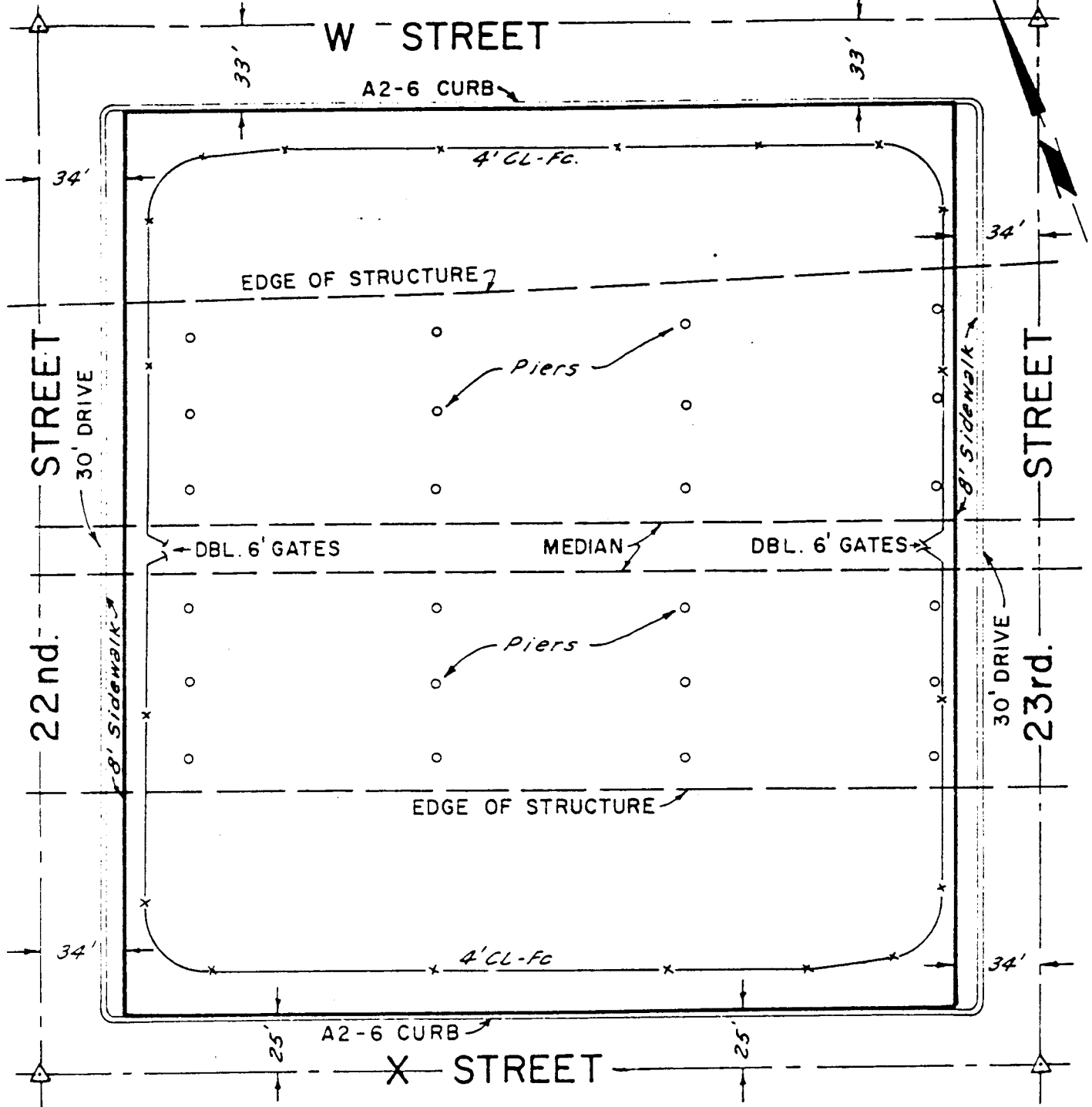
PETER SCHULTZE  
Senior Right of Way Agent  
Airspace Program Manager  
Right of Way

Attachments









GROSS AREA 121,746 SF  
 LESS PIER AREA 303 SF  
 NET AREA 121,443 SF

BRIDGE PIERS SHOWN THUS: ○  
 MAXIMUM AND MINIMUM CLEARANCE 24' to 21'

**SAC050-0011**

Par No 16634

DIST CO RTE PM

3 SAC 80 1.9

SCALE 1"=60'  
 DATE 5/69

## Memorandum

To: CHAIR AND MEMBERS  
Airspace Advisory Committee

Date: December 19, 2000

File: 10-SJX-005-0300  
10-SJX-005-0201

From: DEPARTMENT OF TRANSPORTATION  
Right of Way Program  
Mail Station-37

Subject: Request for Consent to Directly Negotiate-CRV Enterprises, Inc.

### RECOMMENDATION:

It is requested that the Airspace Advisory Committee (AAC) consider and approve a request to directly negotiate a 30-year lease with CRV Enterprises, Inc. It is in the State's best interest to lease this site through direct negotiations to CRV Enterprises, Inc., the owners of the adjoining property, and not offer the airspace sites at public auction. It is believed the best return can be obtained by plotting the airspace sites to the adjoining property. Plotting the two airspace sites directly with the adjoining property will increase the size of CRV Enterprises' proposed development and provide parking needed to fully develop their property. There are no other adjoining owners who might have an interest in the airspace sites and by leasing directly to CRV Enterprises, the State will achieve a higher return than has previously been obtained. This proposal will also relieve the State of the burden of having to maintain two airspace sites that have been under utilized and have only been sporadically leased over the years.

### BACKGROUND:

The subject airspace parcels are located under the I-5 undercrossing over the Stockton Channel and are on the the North and South sides of Webber Avenue. Both sites are irregular in shape and together contain approximately 111,350 s.f. Due to access limitations and their irregular shapes, these sites could not support independent development, and for this reason they have never been offered for bid. The proposed lessee is the only property owner directly adjacent to these sites.

CRV Enterprises currently owns lots 16, 17, 2, 8, 15, 13 and 14 as shown on the attached map and is working with the City of Stockton to have Webber Avenue abandoned. CRV Enterprises will then incorporate the property into their development increasing the size. The proposed development will be a combination of mixed retail, commercial, office and residential uses. The airspace parcels in this proposal would provide vital parking needed for the maximum utilization of this development.

### SUMMARY:

The optimum return for these airspace sites will be realized through a lease that recognizes their highest and best use. It is believed the highest and best use for these parcels is for parking in support of the proposed adjacent development. The optimum return will come only from the plottage value the airspace sites will add to their development plans. As a mixed-use parking

CHAIR AND MEMBERS

Airspace Advisory Committee

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facility, the subject site brings revenue to the State, relieves Caltrans from continuing maintenance problems, does not detract from the safety and aesthetics of the interstate freeway, and poses no danger to the traveling public using the bridge. The developer proposes to grade, pave, curb, stripe and landscape the site. The negotiated rental rate will be based upon a Fair Market Appraisal and Highest and Best Use Study.

It is requested that the Airspace Advisory Committee grant permission to directly negotiate a 30-year lease with this proposed lessee as it would be in the best interest of the State.

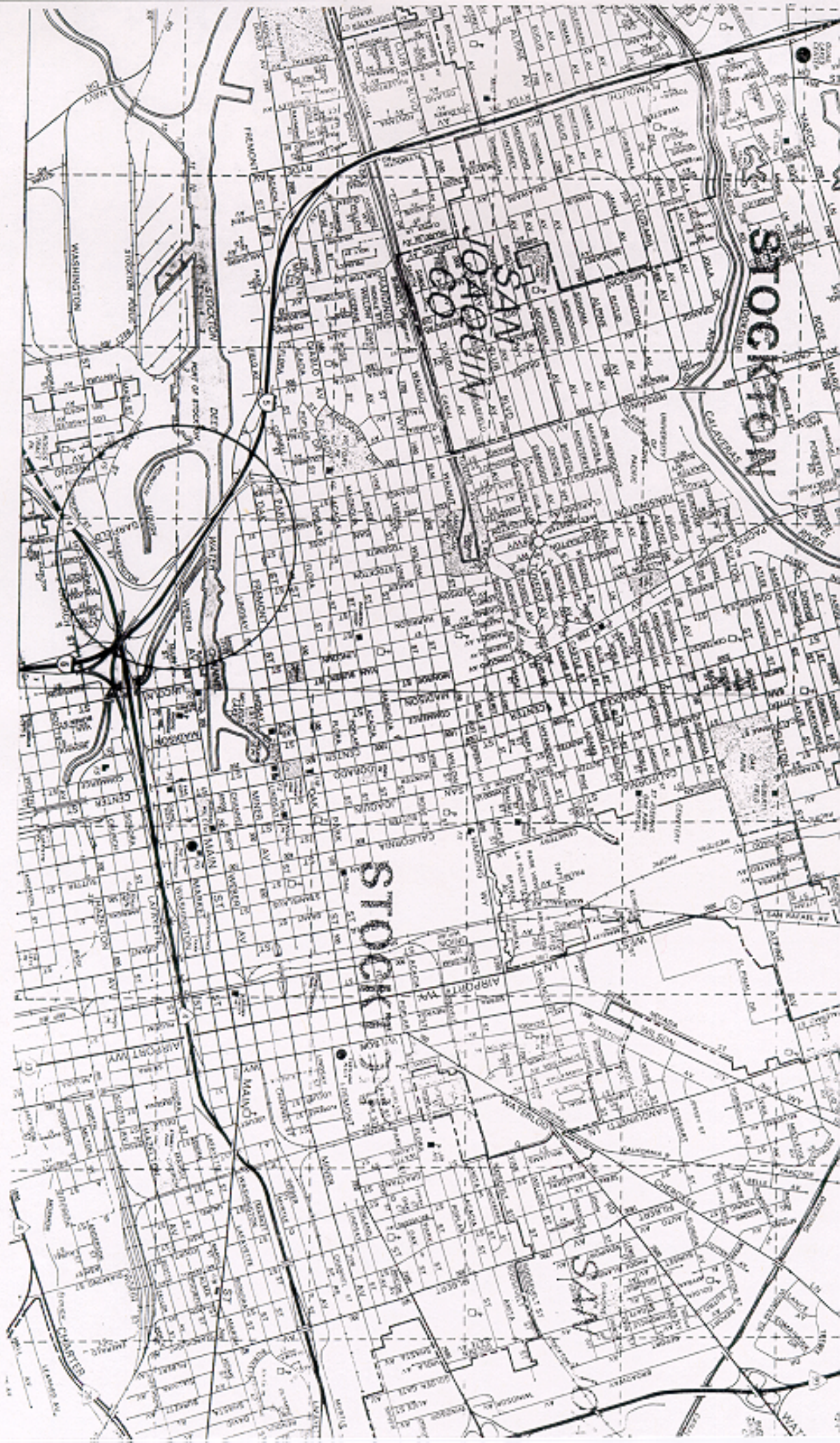
SCOTT ATKINS, Chief

Office of Airspace and Outdoor Advertising

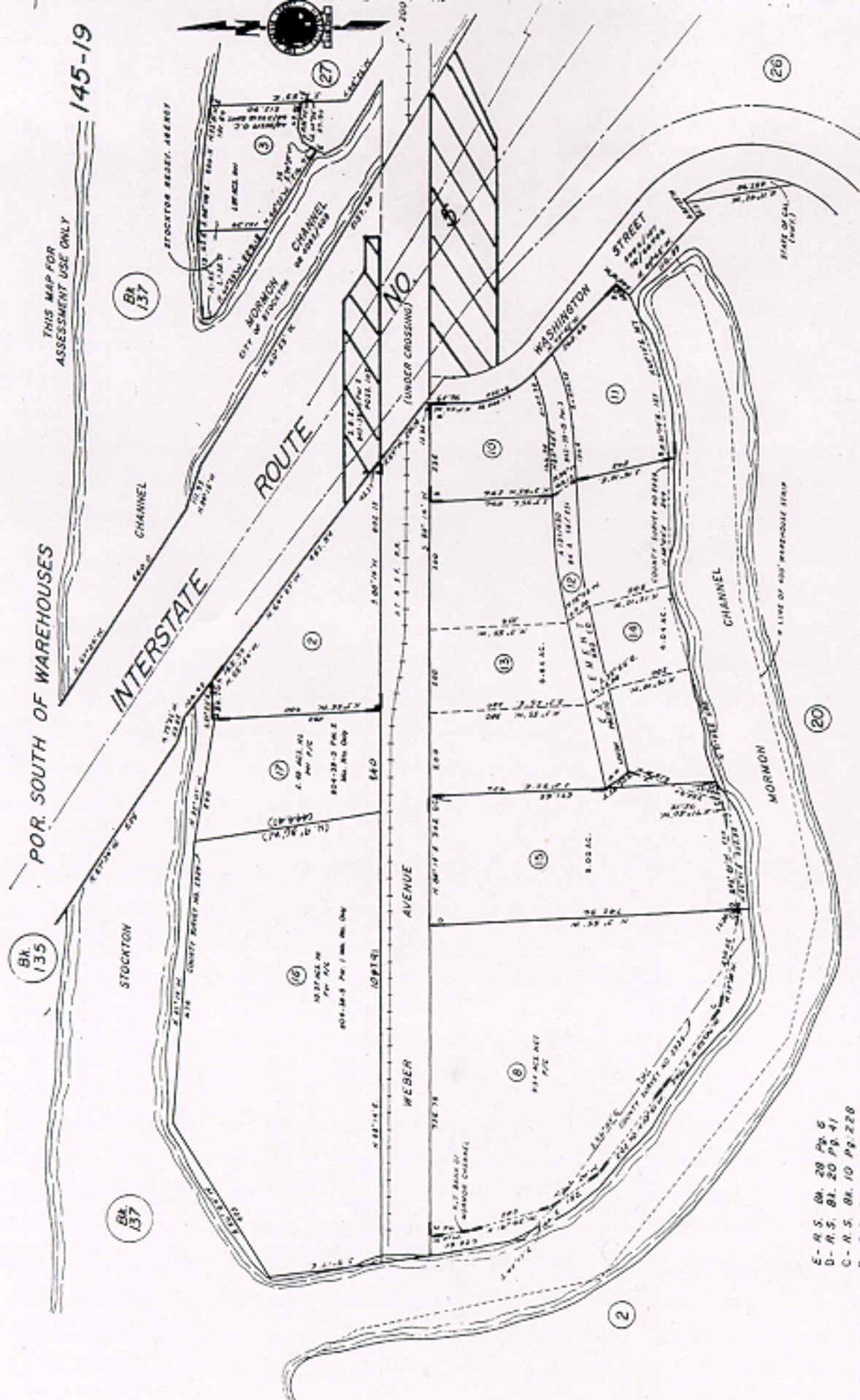
Right of Way

Attachment









THIS MAP FOR  
ASSESSMENT USE ONLY

145-19

POR. SOUTH OF WAREHOUSES

Bk  
135

Bk  
137

STOCKTON

CHANNEL

Bk  
137

STOCKTON REZER. AGENCY

ROUTE

WEBER AVENUE

2

MORMON

CHANNEL

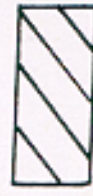
WASHINGTON STREET

STOCKTON

E - R. S. Bk. 20 Pg. 6  
D - R. S. Bk. 20 Pg. 41  
C - R. S. Bk. 10 Pg. 228  
B - R. S. Bk. 17 Pg. 11  
A - R. S. Bk. 25 Pg. 34

NOTE - Assessor's Parcel Numbers Shown in Circles

— AIRSPACE SITES



CITY OF STOCKTON  
Assessor's Map 145-19

# Memorandum

To: CHAIR AND MEMBERS  
Airspace Advisory Committee

Date: December 21, 2000

File: EXCESS LAND  
AAC

From: DEPARTMENT OF TRANSPORTATION  
RIGHT OF WAY  
MAIL STATION 37

Subject: Direct Sale (by exchange) to the Irvine Company

## RECOMMENDATION:

It is requested that the Airspace Advisory Committee (AAC) consider and recommend for approval by the California Transportation Commission (CTC) a proposed direct sale (by exchange) to the Irvine Company. Caltrans considers it to be in the best interest of the State to convey this excess property to the Irvine Company, as the State will receive fair market value from this transaction. The Right of Way contract that will cover this exchange includes acquisition by Caltrans of: (1) miscellaneous temporary construction easements valued at \$5,000 and (2) fee parcels having an estimated value of \$14 million being donated by the Irvine Company.

## BACKGROUND:

The two subject excess land parcels contain approximately 11.823 acres. The larger of the two, identified in the appraisal as Parcel 1A, is a 7.293-acre site located at the southeasterly corner of MacArthur Boulevard and Bison Avenue in the city of Newport Beach, and is zoned for multifamily use. However, due to environmental conditions (wetlands, habitat and endangered species) the site would be difficult if not impossible to develop. The smaller, Parcel 1B, is a 4.53-acre site located at the northeasterly corner of the same intersection and is zoned for commercial use. A concrete 'V' ditch drainage course extends in a northerly direction across this parcel. Both parcels are otherwise vacant and unimproved.

The Irvine Company is the adjoining landowner, and the Caltrans Parcel 1B landlocks a portion of the Irvine Company's property. Although Parcel 1B is capable of independent development, its highest and best use is to develop it as joinder to the Irvine Company property. If Parcel 1B were sold as a separate site, an access right would have to be reserved across it in favor of the Irvine Company, diminishing Parcel 1B's development potential and value. Whether developed separately or as joinder, the commercial parcels will require significant grading. The Irvine Company views this exchange as an opportunity to reacquire a parcel sold to Caltrans many years ago, for the rescinded Corona Del Mar Freeway, and as beneficial as plottage to their existing ownership. Their ultimate goal is commercial development of the larger parcel.

California Transportation Commission Resolution G98-22 authorizes a direct conveyance to an adjoining owner in the event that that adjoining ownership would be landlocked if the surplus Caltrans property were to be sold to another buyer. Such sales are at fair market value, and are defined in the resolution as "Finding 'B'" sales.

The Caltrans excess parcels are valuable holdings and have been appraised by staff as well as independent fee appraisers in the past. Caltrans and the Irvine Company mutually selected the appraisal firm that prepared the current valuation. The firm, C. R. Wilson & Associates-Orange County (formerly Schmitz, Riach and Donahue), is on the Orange County Transportation Authority's panel of in-lieu-of-staff appraisers, and has been used in the past by Caltrans for expert witness appraisal services. Their appraisal has been approved by HQ Right of Way. Pursuant to this appraisal, dated November 9, 2000, Parcel 1A (7.293-acre site) is very likely incapable of development to an economic use because of the presence of wetlands, coastal sage habitat, and California gnatcatchers. It was determined that its highest and best use is for mitigation of wetlands and riparian/coastal sage scrub. It has been valued at \$550,000. Parcel 1B (4.53-acre site) is determined to have a highest and best use as commercial. It has been valued at \$3,330,000.

ANALYSIS:

The highest return to the Caltrans can be realized from this property by a conveyance to the Irvine Company, with a net payment in the amount of \$3,875,000 to the State for the two excess parcels. The proposed transaction is a win-win proposition for both parties. Caltrans will receive full market value for two valuable excess parcels, while the Irvine Company will be reacquiring a key parcel for commercial development. It is therefore requested that the AAC recommend approval of this transaction to the CTC.

STEVEN M. IKEDA  
Senior Right of Way Agent  
Right of Way

Attachments

# Memorandum

To: CHAIR AND MEMBERS  
Airspace Advisory Committee

Date: December 22, 2000

File: EXCESS LAND  
AAC

From: DEPARTMENT OF TRANSPORTATION  
RIGHT OF WAY  
MAIL STATION 37

Subject: Direct Sale to the City of Newport Beach

## **Recommendation:**

It is requested that the Airspace Advisory Committee (AAC) consider and recommend approval by the California Transportation Commission (CTC) a proposed direct conveyance to the City of Newport Beach. Caltrans considers it to be in the best interest of the State to sell this property directly to the city. The purchase price is set at the current market value, and includes an 18-month option. The city proposed to take possession, and will assume responsibility for possession, maintenance and liability of the excess property during the option period. The site has no vehicular access and for this reason, is only developable by proposed access from a future road.

## **Background:**

The property to be conveyed consists of approximately 15 acres of vacant land along the inland side of Coast Highway in two parcels, one on either side of Superior Avenue in west Newport Beach. The larger of the two parcels is the westerly portion and is landlocked – there is no vehicular access permitted by the City because of safety concerns borne of the property's topography. The smaller, easterly portion has vehicular access from Superior Avenue, which also serves a public parking lot. For valuation and sale purposes, the two parcels are bound together by land use agreements.

The subject properties are located at the intersection of two major roads, Superior Avenue and Pacific Coast Highway. In 1983, Superior Avenue was realigned which divided the subject into two parts (known informally as Caltrans West and the Bridge parcel, respectively). The larger parcel (Caltrans West) has an irregular shape and the topography is two-tiered and slopes above Superior Avenue. This westerly parcel is landlocked and will remain so until adjoining property is developed and improved with an extension of a local street (Bluff Road). The smaller portion, commonly referred as the Bridge parcel, has frontage on Superior Avenue, with access via a local road along its southerly property line. In the opinion of the appraiser, one of the most significant development constraints affecting the Caltrans West parcel is its dependence on future development for access.



**Analysis:**

In the appraiser's opinion, the property cannot achieve sufficient access to meet market standards until the adjacent property (known as Newport Banning Ranch) is developed. Proposed access will be from the future Bluff Road, which is the future north-south arterial planned through the Newport Banning Ranch. It is probable that the owner of the Ranch property would be required to make some provision for the subject's access as a condition of development approval, but such development is not anticipated for at least four years. From the appraiser's investigations, no other means of obtaining access sufficient to serve this site adequately are indicated. Therefore, development of the subject is reliant on and waits until the Ranch property begins development and Bluff Road is constructed.

Caltrans appraised the subject property in March 1992 for \$8.2M, and received an offer from the City of Newport Beach for 2.5M subject to City Council approval. When direct sale negotiations with the city reached an impasse, a public auction was held in December 1993 with a minimum bid of \$6.1M. No bids were received at that sale. A re-examination of the market in December 1993 indicated that the value of the property had declined to \$5.7M. By 1997, the market trend showed a steady decline in value to 2.5M. According to an appraisal update obtained in 1998, the improved market conditions for the sale of homes in the vicinity of the property indicate an increase in value to \$3.7M.

While there are several indicators that the subject property has fluctuated dramatically over the years, the most recent appraisal amendment, dated March 2000, indicates continued improvement in the market, with a current market value \$4,185,000.00. During this extended holding period, the Department has continued to incur maintenance costs (primarily weed abatement). Additionally, the risks associated with trespassers and of illegal dumping of refuse and hazardous wastes are ever-present.

The City of Newport Beach proposes to acquire the subject property for park and open space purposes and pay current market value based on residential development. The current value and proposed sales price of \$4,185,000.00 is based upon an appraisal prepared by George Hamilton Jones, with the date of value of March 9, 2000 approved by Headquarters Right of Way on July 17, 2000.

There is evidence that this method of disposal (Direct Sale to Governmental agency) at current fair market value is in the best interest of the State:

- The Department's attempt to auction the subject in 1993 produced no bidders
- Severely limited access (and the considerable holding time until sufficient access could be constructed)
- Potential for delays in development of the adjoining property

Market indicators affirm that a direct sale is reasonable and prudent, particularly considering the subject's dependence on access and the unlikely probability that the adjoining owner of Newport

Banning Ranch would assist a potential competitor by selling or granting access across the Ranch property prior to its development, except at substantial cost. This method is recommended because it will maximize the return to the State. The likelihood that a sale price equal to or exceeding the city's offer if the property were to be exposed to public sale is speculative and remote. Reducing the State's liability exposure and maintenance costs are additional benefits of this direct sale.

**Recommendation:**

The highest return to the State can be realized from this property by a direct conveyance to the City of Newport Beach. This transaction provides fair market value and relieves the Department from continuing maintenance responsibilities, decreases liability exposure, and provides an opportunity to dispose of a property at current market value that would otherwise be difficult to sell. It is therefore requested that the AAC recommend approval of this transaction to the CTC.

STEVEN M. IKEDA  
Senior Right of Agent  
Right of Way

Attachment:

# Memorandum

To: CHAIR AND MEMBERS  
Airspace Advisory Committee

Date: December 19, 2000

File: AIRSPACE  
Airspace Advisory  
Committee

From: DEPARTMENT OF TRANSPORTATION  
RIGHT OF WAY PROGRAM  
Mail Station 37

Subject: Leases of Airspace to Public Entities for Mass Transit Facilities

## RECOMMENDATION:

The Department of Transportation (Department) recommends that the Airspace Advisory Committee (AAC) consider and recommend for approval by the California Transportation Commission (CTC) the attached amendment to CTC Resolution G-6.

## BACKGROUND:

The AAC, at its meeting on October 11, 2000, reviewed a proposal by the Department to encourage mass transit agencies to utilize airspace for new mass transit facilities. This proposal related to implementation of Chapter 513 of the 1992 Statutes, effective January 1, 1993, which added Section 104.12 (b) to the Streets and Highways Code:

"Notwithstanding subdivision (a), in any case where sufficient land or airspace exists within the right-of-way of any highway, constructed in whole or in part with federal-aid highway funds, to accommodate needed passenger, commuter, or high-speed rail, magnetic levitation systems, and highway and nonhighway public mass transit facilities, the department may make the land or airspace available, with or without charge, to a public entity for those purposes, subject to any reservations, restrictions, or conditions that it determines necessary to ensure adequate protection to the safety and adequacy of highway facilities and to abutting or adjacent land uses."

Historically, the Department has allowed public mass transit agencies to place fixed guideways within State highway right of way under encroachment permit, but has charged fair market rent for the lease of airspace for other mass transit facilities such as parking lots for transit patrons and the storage of buses. The above statute does, however, give the Department broad discretion regarding mass transit-related facility leases with or without charge to public entities. We believe it is incumbent upon the Department to further encourage the development and usage of public mass transit systems by providing airspace for new mass transit facilities at a nominal rental or a less than market rental rate.

DISCUSSION:

The AAC, at your October 11, 2000 meeting reviewed the Department's proposal, which included a proposed delegation to the Department to enter into these leases without specific approval of the CTC, and a two-tiered payment proposal described as follows:

- The lease rate will be a nominal annual amount, sufficient to cover the Department's lease administration costs, for those proposed mass transit facilities which will result in direct and positive congestion relief, such as a new fixed guideway, a new bus route, a new or expanded park and ride lot for patrons of mass transit, or a downtown commuter bus parking facility.
- The lease rate will be 50 percent of appraised fair market rent for those proposed mass transit facilities which will result in indirect congestion relief but are a necessary part of the mass transit agency's overall operations, such as a bus storage yard or a maintenance and/or rehabilitation facility.

The AAC indicated that a delegation, at this time, would not be in order, and that the AAC should review and make a recommendation on each of these leases to the CTC. In addition, there was concern over the second rental proposal, above, regarding a charge of 50 percent of fair market rent for those proposed mass transit facilities which result in indirect congestion relief.

The Department presented this matter to the CTC at its meeting on December 5, 2000, and reflected the changes recommended to the original proposal by the AAC. The proposal as now structured is as follows:

It is proposed that a lease or other written agreement be entered into between the Department and the applicant public entity as to approved facilities. Such written agreements will include any and all reservations, restrictions, or conditions that the Department determines necessary to ensure adequate protection of the Department's highway facilities and abutting or adjacent land uses. The rental rate charged by the Department will be as follows:

- The lease rate will be a nominal annual amount, sufficient to cover the Department's lease administration costs, for those proposed mass transit facilities which will result in direct and positive congestion relief, such as a new fixed guideway, a new bus route, a new or expanded park and ride lot for patrons of mass transit, or downtown commuter bus parking facility.
- The lease rate may be less than appraised fair market rent for those proposed mass transit facilities which will result in indirect congestion relief but are a necessary part of the mass transit agency's overall operations, such as a bus storage yard, or a maintenance and/or rehabilitation facility.



After approval by the Department and the Federal Highway Administration, each application and proposed lease or other written agreement of an airspace site to a public entity for a mass transit facility for less than fair market rent will be submitted by the Department to the AAC for its review and recommendation for approval by the CTC. The lease or other written agreement will then go to the CTC for its review and approval.

The CTC, at its meeting on December 5, 2000, requested that the Department present an updated CTC resolution for its approval at an upcoming meeting, after obtaining AAC concurrence. Attached is a draft CTC resolution for your review. The new wording dealing with this proposal is in bold. The other language not in bold is the current wording in CTC Resolution G-6.

SUMMARY:

The Department requests the AAC recommend for approval by the CTC the attached resolution which will enable the Department to proceed with implementation of the above-described procedures.

SCOTT ATKINS, Chief  
Office of Airspace and Outdoor Advertising  
Right of Way

Attachment

# CALIFORNIA TRANSPORTATION COMMISSION

## Procedure for Leasing Airspace to Public Entities

### **Resolution G-00- Amending and Replacing Resolution G-6**

- 1.1 WHEREAS, Section 104.12(a) of the Streets and Highways Code authorizes the Department of Transportation to lease the use of airspace above or below State highways to public entities in accordance with procedures to be prescribed by the California Transportation Commission; and
- 1.2 **WHEREAS, Section 104.12(b) of the Streets and Highways Code authorizes the Department of Transportation to make airspace available, with or without charge, to public entities for mass transit facilities; and**
- 1.3 WHEREAS, Section 14013 of the Government Code provides that the Director may lease airspace to local agencies for public purposes and may contribute toward the costs of developing local parks and other such recreational facilities on such areas;
- 2.1 NOW THEREFORE BE IT RESOLVED that the California Transportation Commission hereby authorizes the Department to enter into leases with public agencies without specific California Transportation Commission approval for each airspace lease whenever the Department finds:
- . That the lessee is a public entity as defined in the Government Code.
  - . That the lease will fulfill a public purpose.
  - . That the Department will receive fair market rent for the property.
- 2.2 **BE IT FURTHER RESOLVED that all leases or other written agreements with public entities for mass transit facilities, for less than market rent, will require specific California Transportation Commission approval;**
- 2.3 BE IT FURTHER RESOLVED that when it is determined that park or recreational use is appropriate, the Department may use as all or part of the consideration for a lease for park or recreational purposes any substantial benefits the Department derives from the local agency's maintenance or landscaping costs which would otherwise be the obligation of the Department whenever the Department finds:
- . That the lessee is a municipality or other local agency as defined in the Government Code.
  - . That the use is for park or recreational purposes only.
  - . That the lessee agrees that whenever the leased land is needed for transportation purposes the lease shall terminate.
- 2.4 **BE IT FURTHER RESOLVED that Resolution G-6 is here by replaced.**